

## ATTORNEY GENERAL[61]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of 2011 Iowa Acts, Senate File 418, the Attorney General hereby gives Notice of Intended Action to adopt new Chapter 36, “Disclosure Statement of Repairs or Adjustments to, or Replacements of Parts with New Parts on, New Motor Vehicles,” Iowa Administrative Code.

The proposed rules set out the disclosure form that must be issued to buyers or lessees by licensed new motor vehicle dealers when selling or leasing a new motor vehicle which has incurred certain repairs or adjustments, or replacements of parts with new parts, pursuant to the requirements of 2011 Iowa Acts, Senate File 418.

Any interested person may make written suggestions or comments on these proposed rules prior to August 31, 2011. Such written materials should be directed to William L. Brauch, Director, Consumer Protection Division, Iowa Attorney General’s Office, 1305 E. Walnut Street, Des Moines, Iowa 50319; fax (515)281-6771; or via E-mail to [Consumer@Iowa.gov](mailto:Consumer@Iowa.gov). Persons who wish to convey their views orally should contact Mr. Brauch at (515)281-5926 or at the office of the Consumer Protection Division, Second Floor, Hoover State Office Building, Des Moines, Iowa.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement 2011 Iowa Acts, Senate File 418.

The following amendment is proposed.

Adopt the following new 61—Chapter 36:

#### CHAPTER 36

#### DISCLOSURE STATEMENT OF REPAIRS OR ADJUSTMENTS TO, OR REPLACEMENTS OF PARTS WITH NEW PARTS ON, NEW MOTOR VEHICLES

**61—36.1(321) New motor vehicle repair or parts replacement disclosure requirement.** A person licensed as a new motor vehicle dealer pursuant to Iowa Code chapter 322 is required to disclose to the buyer or lessee of a new motor vehicle that the vehicle has been subject to any repairs or adjustments, or replacements of parts with new parts, if the actual cost of any labor or parts charged to or performed by the dealer for any such repairs, adjustments, or parts exceeds 4 percent of the dealer’s adjusted cost.

#### **61—36.2(321) Definitions.**

“*Dealer’s adjusted cost*” means the amount paid by the dealer to the manufacturer or other source for the vehicle, including any freight charges, but excluding any sum paid by the manufacturer to the dealer as a holdback or other monetary incentive relating to the vehicle.

“*Electronic signature*” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

“*Motor vehicle*” means a vehicle which is self-propelled and not operated upon rails.

“*New motor vehicle*” means a motor vehicle subject to registration which has not been sold “at retail” as defined in Iowa Code chapter 322.

#### **61—36.3(321) Form and format of required disclosure statement.**

**36.3(1)** The disclosure statement required by this rule shall be made in writing, to a buyer or lessee, at or before the time of sale or lease to the buyer or lessee and shall include the following statement, in at least 14-point type:

Iowa law requires new motor vehicle dealers to disclose to their customers when a new vehicle the dealer offers for sale or lease has been subject to prior repairs or adjustments, or has had parts replaced with new parts, when the cost of that repair, adjustment or replacement is more than 4% of the dealer's adjusted cost for the vehicle. This new vehicle has had repairs, or has had parts adjusted or replaced, as follows:

[Dealer: Check all that apply, and fully describe all repairs, adjustments or part replacements.]

☐ Repair(s) to the following part(s): \_\_\_\_\_

☐ Adjustment(s), as follows: \_\_\_\_\_

☐ Replacement(s) of the following part(s): \_\_\_\_\_

**36.3(2)** The disclosure statement shall also include all of the following:

- a. The year, make, model and vehicle identification number of the vehicle;
- b. The signature of the buyer or lessee;
- c. The name and address of the dealership;
- d. The signature of a dealer representative authorized to legally bind the dealership;
- e. The dates on which the above signatures were affixed to the document.

**36.3(3)** The disclosure required pursuant to this rule shall be made clearly and conspicuously, shall include no writing except as required by this rule, and shall be made in either of the following ways:

- a. On a separate 8½" × 11" white piece of paper; or
- b. Via electronic means, with the electronic signatures of all parties required to sign the disclosure pursuant to this rule.

**61—36.4(321) Buyer or lessee to be given opportunity to review disclosure statement.** The dealer shall give the buyer or lessee an adequate opportunity to review the disclosure statement before asking the buyer or lessee to sign the disclosure statement.

**61—36.5(321) Copy of disclosure statement to buyer or lessee.** The dealer shall give a copy of the fully completed and signed disclosure statement to the buyer or lessee to retain at the time the statement is fully completed and signed. This requirement may be met by providing the buyer or lessee with a paper copy, including but not limited to a computer-generated printout, or by directing the disclosure statement in electronic form to an E-mail address of the buyer's or lessee's choosing and in a format that is accessible to the buyer or lessee. The manner in which a copy of the disclosure statement is to be provided to the buyer or lessee pursuant to this rule shall be at the discretion of the buyer or lessee.

**61—36.6(321) Record retention requirement.** A dealer shall retain a paper or electronic copy of each written disclosure issued pursuant to this chapter for five years from the date of issuance.

**61—36.7(321) Substantially similar disclosure statements.** Disclosure statements that are substantially similar to the statement required by this chapter will be permitted with the prior approval of the attorney general.

These rules are intended to implement 2011 Iowa Acts, Senate File 418.